

Subchapter III. Compensation Policy

§ 5821. Findings.

(a) There are numerous elected state officials and other paid appointed officials who are also employed by state agencies, educational and other institutions, and other jurisdictions of government within the State.

(b) The members of the General Assembly believe that the taxpayers of Delaware should not pay an individual more than once for coincident hours of the workday.

(c) The State should have in place clear policies and procedures to ensure that taxpayers of the State as a whole, and of its various governmental jurisdictions, are not paying employees or officials from more than 1 tax-funded source for duties performed during coincident hours of the workday. (65 Del. Laws, c. 488, § 1.)

§ 5822. Policy.

(a) Any person employed by the State, or by any political subdivision of the State, including but not limited to any county, city or municipality, who also serves in an elected or paid appointed position in state government or in the government of any political subdivision of the State, including but not limited to any county, city or municipality, shall have his or her pay reduced on a prorated basis for any hours or days missed during the course of the employee's normal workday or during the course of the employee's normal workweek while serving in an elected or paid appointed position which requires the employee to miss any time which is normally required of other employees in the same or similar positions.

(b) Any day an employee misses work due to his or her elected or paid appointed position, he or she shall have his or her immediate supervisor verify a time record stating specifically the number of hours worked that day; said verification to take place at least once every pay period.

(c) All time records, so verified, shall be kept by the immediate supervisor until such time as they are required by the State Auditor.

(d) No employee shall be permitted to make up time during hours other than the normal workday for purposes of compensation. A normal workday is defined by Merit Rule 5.0200. A standard work schedule is defined by Merit Rule 5.0210.¹

(e) Any hours or days during which an employee uses vacation, personal, or compensatory days to which he or she is entitled shall not constitute hours or days which fall within the scope of this subchapter.

(f) School administrators whose duties require that they work regularly during summer months shall not be exempted from this chapter. If a school administrator shall have no immediate supervisor, the school administrator's time record shall be verified by the appropriate school board at its next regular or special meeting following any pay period in which said administrator missed work due to his or her elected or paid appointed position. (65 Del. Laws, c. 488, § 1; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 190, §§ 1, 2.)

¹Note: Merit Rules 5.0200 and 5.0210 were eliminated in the Merit Rules revision that became effective January 1, 2004. The Merit Rules now refer to a “work schedule” to recognize the flexible and compressed work schedules. Merit Rule 4.2.

Annotations

Effect of amendments. - 73 Del. Laws, c. 190, effective July 17, 2001, added the last two sentences in (d); and substituted "vacation, personal, or compensatory" for "vacation or personal" in (e).

§ 5823. Audits; penalty.

(a) The State Auditor shall conduct an annual audit of the time records which have been kept by the supervisors or school board in accordance with § 5822(b) and (c) of this title to determine whether or not an employee was paid from more than 1 tax-funded source for working coincident hours of the day.

(b) Any discrepancy found by the State Auditor shall be reported to the Public Integrity Commission for investigation pursuant to § 5810 of this title and/or to the Office of the Attorney General for possible prosecution under § 876 of Title 11 (tampering with public records in the first degree) and any other appropriate section.

(65 Del. Laws, c. 488, § 1; 69 Del. Laws, c. 467, § 26.)